

DECLARATION UNDER 37 C.F.R. 1.131 / Patrick S. Cunningham
SERIAL NO: 09/777,353

EXHIBIT N

NONDISCLOSURE AGREEMENT

This Consulting and Nondisclosure Agreement (the "**Agreement**") is dated as of this 17th day of January, 2001, and is by and between Patrick Cunningham Group, Inc., an Arizona corporation, and Patrick Cunningham (collectively, "**Client**"), and Cybercilium, Inc., a Delaware corporation ("**Consultant**").

RECITALS:

A. Client has developed a software application (the "**Product**") for use in certain transactions by a certain class of businesses. Client requires assistance in completing the development of the Product so that it may become marketable to the businesses for which it is being developed.

B. Consultant is skilled in programming and software development and is willing to assist Client in the further development of the Product, including assistance in retaining other specialized personnel to perform specific tasks in the development, such as programming.

C. Client is willing to retain Consultant, but only upon the terms and conditions of this Agreement. Agreement by Consultant to the nondisclosure and confidentiality provisions of this Agreement is a condition to Client being willing to disclose any information about the Product to Consultant.

AGREEMENTS:

In consideration of the recitals and mutual agreements of the parties, the parties agree:

1. Definition of Confidential Information. For the purposes of this Agreement, "**Confidential Information**" shall mean all information obtained by Consultant from or disclosed by Client, including any information or know-how, data, process, technique, design, drawing, program, formula or test data, trade secret, prices, algorithm, computer program (source and object code), relating to the Product, work in progress, future development, engineering, manufacturing, marketing, servicing, financing, or personnel matter relating to Client, the Product, sales, suppliers, clients, customers, employees, investors or business, whether in oral, written, graphic or electronic form; or any document, diagram, drawing, computer program, or other communication which is either conspicuously marked "confidential," known or reasonably known by Consultant to be confidential, or is of a proprietary nature, and is learned or disclosed in the course of discussion, studies, or other work undertaken between the parties; and any information which Client has identified to Consultant in writing as confidential before or within thirty days after disclosure. "**Confidential Information**" shall also include all information developed by Consultant which is, by the terms of this Agreement, to be owned by Client.

2. Nondisclosure Obligations. Consultant agrees (a) to hold Client's Confidential Information in strict confidence; (b) to exercise at least the same care in protecting Client's Confidential Information from disclosure as Consultant uses with regard to its own Confidential Information; (c) not to disclose such Confidential Information to third parties; and

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(d) not to use any Confidential Information for any purpose other than development of the Product on behalf of the Client except as set forth elsewhere in this Agreement. Confidential Information does not include, and Consultant has no obligation to keep confidential, technology used to develop the Product which presently exists in the public domain, although the application of such technology to the Product shall be Confidential Information to the extent such application is unique.

3. Confidential Information Developed by Consultant. As part of the duties of Consultant, Consultant may develop or cause to be developed, processes, computer programs, or other material which, when applied to or used in the Product, will become Confidential Information, some of which may be protectible by patent or copyright. Such information, processes, developments, and other material shall be owned by Client, and Consultant agrees to execute any documents required to convey such material to Client, including the assignments of all copyrights and patents thereto. Consultant agrees that any developments to the Product made by him or any agent, employee or contractor of his shall constitute a work for hire owned by Client.

4. Disclosure to Employees and Others. Consultant may disclose Client's Confidential Information to its responsible employees with a bona fide need to know, but only to the extent necessary to carry out the purpose of this Agreement. Consultant shall be responsible for the conduct of its employees pursuant to this Agreement. Consultant agrees to instruct all such employees not to disclose such Confidential Information to third parties, including consultants, without the prior written permission of Client. Consultant may also disclose Client's Confidential Information to independent contractors retained by Client or by Consultant to assist with development of the Product, but only after such independent contractor has executed a nondisclosure agreement with or for the benefit of Client which contains restrictions on disclosure as least as comprehensive as those contained in this Agreement.

5. Removal of Confidential Materials. Consultant agrees not to remove any materials or tangible items containing any of Client's Confidential Information from the premises of Client without Client's consent. Consultant agrees to comply with any and all terms and conditions that Client imposes upon approved removal of such materials or items, including without limitation that the removed materials or items must be returned by a certain date, and that no copies of the removed materials or items are to be made.

6. Return of Confidential Information. Consultant agrees to promptly return to Client any documents reflecting Confidential Information and any copies made thereof that Consultant may have made, may have access to, or may receive or possess during the period of its discussions and/or business relationship. Upon termination of the business relationship between Client and Consultant, Consultant shall promptly deliver to Client any and all such information in its possession or under its control, except as the parties by prior express written permission or agreement have agreed to retain. Upon Client's request, Consultant will promptly return to Client all materials or tangible items containing Client's Confidential Information and all copies thereof.

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7. No Grant of Rights. Each party recognizes and agrees that nothing contained in this Agreement will be construed as granting any rights to Consultant, by license or otherwise, to use any of Client's Confidential Information except as specified in this Agreement.

8. Equitable and Legal Relief. Each party acknowledges that all Client's Confidential Information is owned solely by Client (and its licensors) and that the unauthorized disclosure or use of such Confidential Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. Accordingly, each party agrees that Client shall have the rights to obtain an immediate injunction from any court of competent jurisdiction enjoining breach of this Agreement or disclosure of the Confidential Information. Client shall also have the right to pursue any other rights or remedies available at law or in equity for such a breach. In the event any action shall be brought by either party hereto against the other on account of the breach of any provisions, covenant or condition herein contained, the prevailing party in said action shall be reimbursed by the other party for all reasonable costs and expenses incurred in connection with litigation, including without limitation, reasonable attorney's fees.

9. Not Consulting Contract. This Agreement does not contain the terms and conditions, including compensation, by which Consultant will render services to Client. Such terms and conditions shall be set forth in a separate Agreement, which shall contain terms and conditions consistent with the terms of this Agreement. In the event of conflict between the terms of the agreement for consulting services and this Agreement, the terms of this Agreement shall control, even if the agreement for consulting services is executed after this Agreement, unless the agreement for consulting services or other document specifically amends this Agreement.

10. Integration. This Agreement, subject to the terms and conditions imposed on the removal of Confidential Information under Section 5 and execution of a consistent agreement for consulting services as contemplated by Section 9, is the entire Agreement between the parties with respect to the subject matter hereof, and revokes and supersedes all prior agreements between the parties and is intended as a final expression of their Agreement. This Agreement shall not be modified or amended except by written agreement signed by a duly authorized representative of the parties hereto. This Agreement shall take precedence over any other documents that may be in conflict therewith.

11. Severability. If any provision of this Agreement is declared to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

12. Governing Law. This Agreement shall be governed by the laws of the State of Arizona applicable to agreements made and to be wholly performed therein, without reference to or application of principles of choice of law.

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13. Waiver. No waiver by either party, whether express or implied, of any provision of this Agreement shall constitute a continuing waiver of such provision or a waiver of any other provision of this Agreement. No waiver by either party, whether express or implied, of any breach or default by the other party, shall constitute a waiver of any other breach or default by the other party, shall constitute a waiver of any other breach or default of the same or any other provision of this Agreement.

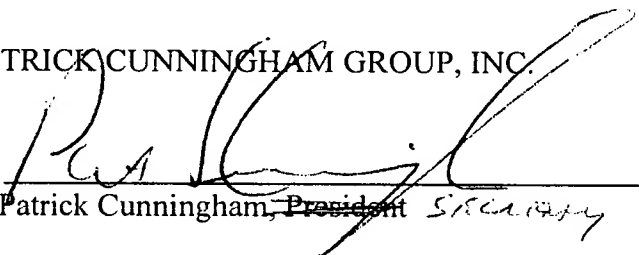
14. Court Ordered Disclosure. Consultant shall not be liable for the disclosure of Confidential Information if made in response to a valid order of a court or authorized agency of the government; provided that ten days notice first be given to Client so a protective order, if appropriate, may be sought by Client.

15. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, administrators, successors and assigns.

DATED as of the date first above written.

PATRICK CUNNINGHAM GROUP, INC.

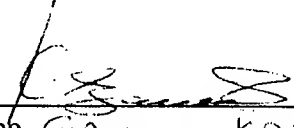
By


Patrick Cunningham, ~~President~~ Secretary

Patrick Cunningham

CYBERCILIUM, INC.

by


Name GANESU KRISHNAMURTHY
Title PRESIDENT